

## Message Text

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ACTION EUR-12

INFO OCT-01 IO-10 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07

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R 171400Z MAY 75

FM AMEMBASSY BERLIN

TO SECSTATE WASHDC 827

INFO AMEMBASSY BONN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION USUN NEW YORK

USMISSION NATO

USBERLIN UNN

C O N F I D E N T I A L BERLIN 5721

E.O. 11652: GDS

TAGS: ELTN, PFOR, GE, FR, UK, UR, US, WB

SUBJECT: GDR ON STATUS OF BERLIN AND PROPOSAL FOR JOINT COMPANY

TO OPERATE S-BAHN IN WEST BERLIN

REF: A) BONN 4170; B) USBERLIN 772

1. SUMMARY. DURING A MAY 15 CONVERSATION, A WELL-CONNECTED GDR SOURCE PROVIDED VIEWS ON THE NEW SOVIET NOTE TO THE UN REGARDING THE STATUS OF BERLIN AND ON THE GDR PROPOSAL FOR A JOINT COMPANY TO OPERATE THE S-BAHN IN WEST BERLIN.

END SUMMARY

2. AT THE OUTSET OF A LUNCHEON WITH AN EMBASSY OFFICER ON MAY 15, DR. WOLFGANT SEIFFERT, PROFESSOR FOR INTERNATIONAL ECONOMIC LAW AND COMPARATIVE LAW AT THE INSTITUTE FOR POLITICAL SCIENCE AND LAW AT BABELSBERG, REFERRED TO A NEW SOVIET NOTE TO THE UN THAT REFUTES ALLIED VIEWS (REF A),  
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CONCERNING THE STATUS OF BERLIN. SEIFFERT ADDED, WITH

UNCONCEALED SATISFACTION, THAT THE THESIS JUST ADVANCED BY THE SOVIETS SUPPORTED HIS LONG-STANDING POSITION THAT WEST BERLIN IS NOT ON THE TERRITORY OF THE GDR BUT RATHER SURROUNDED BY THE GDR. HIS POSITION HAD HERETOFORE NOT BEEN UNIVERSALLY ACCEPTED WITHIN THE GDR, ACCORDING TO SEIFFERT, BUT IT NOW COULD BE, CONSIDERING THE AUTHORITATIVE SUPPORT IT HAD BEEN GIVEN. WHEN EMBASSY OFFICER INQUIRED AS TO THE CONTENTS OF THE SOVIET NOTE (THE FIRST PRESS REPORTS APPEARED IN WEST GERMAN PAPELS ON MAY 16), SEIFFERT SAID THE SOVIETS MAINTAINED THAT THE ALLIES UNILATERALLY CUT OFF THE THREE WESTERN SECTORS FROM EAST BERLIN AND THE SURROUNDING AREA IN THE LATE 1940S. THE WESTERN ALLIES, BY EXTENDING THE WEST GERMAN CURRENCY REFORM TO AND BY ESTABLISHING A SEPARATE GOVERNMENT FOR THE WESTERN SECTORS, HAD IPSO FACTO RENOUNCED ANY RIGHTS THEY HAD PREVIOUSLY POSSESSED IN THE SOVIET SECTOR OF FOUR POWER GREATER BERLIN.

3. SEIFFERT OBSERVED THAT, ASIDE FROM THE LEGAL MERITS, HIS VIEW OF WEST BERLIN AS BEING SITUATED WITHIN THE GDR IS EASIER TO SQUARE WITH THE DE FACTO SITUATION IN THAT PART OF THE CITY THAN IS THE COMPETING THESIS. THE PRESENCE IN THE WESTERN SECTORS OF FOREIGN TROOPS, OFFICES OF A FOREIGN GOVERNMENT AND ACTIVITIES OVER WHICH THE GDR HAS NO CONTROL CAN BE RECONCILED WITH HIS POSITION, WHEREAS NO SELF-RESPECTING STATE, AND CERTAINLY NOT THE GDR, COULD COUNTENANCE SUCH THINGS OCCURRING ON ITS TERRITORY WITHOUT ITS PERMISSION.

4. THE FOREGOING DISCUSSION AND A SUBSEQUENT EXCHANGE REGARDING THE GDR ATTITUDE TOWARD COOPERATION AGREEMENTS AND JOINT VENTURES CAUSED SEIFFERT TO REFER TO THE GDR PROPOSAL FOR A JOINT COMPANY TO OPERATE THE S-BAHN IN WEST BERLIN (REF B). SEIFFERT SAID THAT THIS IDEA ORIGINATED WITH HIM AND WAS CONTAINED IN A LENGTHY STUDY HE RECENTLY CONCLUDED CONCERNING THE LEGAL STATUS OF THE S-BAHN IN WEST BERLIN. NOTING THAT THE GDR WAS PREPARED TO PARTICIPATE IN MIXED EQUITY AND JOINT MANAGEMENT VENTURES OUTSIDE ITS OWN TERRITORY,  
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SEIFFERT SAID THAT THIS WILLINGNESS EXTENDED TO WEST BERLIN NOTWITHSTANDING DIFFERENCES BETWEEN THE GDR AND THE WEST ON THE OWNERSHIP OF AND SOVEREIGNTY OVER S-BAHN PROPERTIES. SEIFFERT CLAIMED THAT THE GDR WAS MOST UNHAPPY OVER HAVING TO SUBSIDIZE A TRANSPORTATION SYSTEM FOR THE BENEFIT OF CITIZENS OTHER THAN ITS OWN AND ASSERTED THAT SUBSIDIES REQUIRED BY THE S-BAHN FOR ITS OPERATIONS IN WEST BERLIN SHOULD

BE BORNE BY THE SENAT RATHER THAN BY THE GDR. WHEN  
PRESSED, SEIFFERT SAID THE GDR COULD NOT SIMPLY DIS-  
CONTINUE UNPROFITABLE WEST BERLIN S-BAHN OPERATIONS  
BECAUSE TO DO SO WOULD ENTAIL AN UNACCEPTABLE LOSS OF  
PRESTIGE. SEIFFERT DISINGENUOUSLY CLAIMED THAT A PRO-  
POSAL ON SUCH A JOINT COMPANY MIGHT HAVE BEEN INCLUDED  
IN THE GDR'S OFFER OF LATE 1974 TO THE SENAT BUT ADDED  
THAT HE HAD NO KNOWLEDGE AS TO WHETHER THE GDR HAD, IN  
FACT, ADVANCED SUCH AN IDEA.

5. COMMENT: SEIFFERT'S REMARKS (MEMCON BEING POUCHED)  
STRIKE US AS INTERESTING FOR TWO REASONS. FIRST,  
IT WOULD APPEAR THAT THE SOVIETS CONSULT OR INFORM THE  
EAST GERMANS AT LEAST AS TO THE SUBSTANCE OF MAJOR PRO-  
NOUNCEMENTS REGARDING THE STATUS OF BERLIN PRIOR TO  
MAKING THEM PUBLIC. REGARDING THE PROPOSAL FOR A JOINT  
S-BAHN COMPANY, WE GATHER THAT THIS PROPOSAL IS A PET  
PROJECT OF SEIFFERT'S. HIS REASONS FOR DISCLAIMING  
CREDIT FOR ADVANCING THE IDEA AND FOR LYING ABOUT  
ITS BEING KNOWN TO THE SENAT (REF B) ARE DIFFICULT TO FATHOM;  
BUT AS USBER SUGGESTED IN REF B, IT IS APPARENT THAT  
THE GDR IS NOT MOTIVATED SOLELY BY FINANCIAL  
CONSIDERATIONS, ALTHOUGH WE BELIEVE THESE COULD BE  
UPPERMOST IN THE MINDS OF ITS PROPONENTS.COOPER

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